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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,484	06/25/2001	Wade Lee	13.041	9387

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ELLIOT B. ARONSON  
5001 HARBORD DRIVE  
OAKLAND, CA 94618

EXAMINER

COURSON, TANIA C

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/891,484

Applicant(s)

LEE, WADE

Examiner

Tania Courson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6,7 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- I) The species shown in Figs. 1 and 2a.
- II) The species shown in Figs. 1 and 2b.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 2, 9 and 12 appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to

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be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. Eliot Aronson on June 12, 2002, and June 13, 2002, a provisional election was made without traverse to prosecute the invention of species (I), claims 1-5, 8-9 and 11-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6-7 and 10 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "at least one exterior surface" as stated in line 2 of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 8-9 and 11-12 are rejected under 35 U.S.C. 103 (a) as being unpatentable over worklight described in the specification filed on June 25, 2001 in the Patent Application Serial Number 09/891,484 [hereinafter Prior Art] in view of Parker (U.S. Patent No. 3,893,340) and Virnoche (U.S. Patent No. 3,392,247).

The Prior art discloses a worklight as claimed by the applicant with the exception of a warning indicator and the recessed area to receive the warning indicator.

With respect to a warning indicator providing an indication that said at least one exterior surface is of a temperature hot to human touch, said indicator comprising a thermochromic substance in thermal communication with at least a portion of said at least one exterior surface, said thermochromic substance being disposed in a readily visible location and being formulated to undergo a conspicuous color change in response to heat from said at least one exterior surface during normal operation of said worklight, said conspicuous color change providing an indication that said at least one exterior surface is of a temperature hot to human touch said thermochromic substance is carried on said substrate, and said substrate is disposed with respect to said at least one exterior surface so as to place said thermochromic substance in thermal communication with at least a portion thereof, a warning indicia carried on said substrate, and wherein said thermochromic substance is carried on said substrate so as to cover said indicia,

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wherein said thermochromic substance is normally substantially opaque at room temperature so as to substantially obscure said indicia and turns transparent in response to said heat from said at least one exterior surface so as to expose said indicia, wherein said substrate is transparent, and said thermochromic substance and said indicia are carried on the underside of said substrate, whereby said substrate provides a protective covering for said thermochromic substance and indicia, wherein said thermochromic substance forms a layer on the underside of said substrate, said indicia are applied to the underside of said layer, and said substrate with said thermochromic layer and indicia are adhered in position at said at least one exterior surface with the undersides thereof directed toward said at least one exterior surface, further comprising a thermal moderator disposed between said thermochromic substance and said at least one exterior surface, whereby said thermochromic substance is in thermal communication with said at least one exterior surface through said thermal moderator, Parker teaches a thermally insulated warning indicator that consists of a warning indicator (column 5, lines 1-11) providing an indication that said at least one exterior surface is of a temperature hot to human touch (column 5, lines 1-11), said indicator comprising a thermochromic substance (Fig. 4, liquid crystal composition 22) in thermal communication with at least a portion of said at least one exterior surface (column 5, lines 1-11), said thermochromic substance being disposed in a readily visible location and being formulated to undergo a conspicuous color change in response to heat from said at least one exterior surface during normal operation (column 5, lines 1-11) of said worklight, said conspicuous color change providing an indication that said at least one exterior surface is of a temperature hot to human touch (column 5, lines 1-11), a substrate (Fig. 4, translucent 28) wherein said thermochromic substance is carried on said substrate, and said substrate is disposed with respect to said at least

one exterior surface so as to place said thermochromic substance in thermal communication with at least a portion thereof, a warning indicia (Fig. 4, masking 24) carried on said substrate, and wherein said thermochromic substance is carried on said substrate so as to cover said indicia, wherein said thermochromic substance is normally substantially opaque at room temperature so as to substantially obscure said indicia and turns transparent in response to said heat from said at least one exterior surface so as to expose said indicia (column 1, lines 20-24), wherein said substrate is transparent, and said thermochromic substance and said indicia are carried on the underside of said substrate, whereby said substrate provides a protective covering for said thermochromic substance and indicia (column 1, lines 20-24), wherein said thermochromic substance forms a layer on the underside of said substrate, said indicia are applied to the underside of said layer, and said substrate with said thermochromic layer and indicia are adhered in position at said at least one exterior surface with the undersides thereof directed toward said at least one exterior surface (Fig. 4), further comprising a thermal moderator (Fig. 4, insulator 20) disposed between said thermochromic substance and said at least one exterior surface, whereby said thermochromic substance is in thermal communication with said at least one exterior surface through said thermal moderator (Fig. 4). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to further modify the worklight of the Prior Art, so as to include a thermally insulated warning indicator as taught by Parker, so as to generate a visual message that can be used as a warning device for individuals during use of the device.

With respect to at least one exterior surface formed with a recessed area sized to receive said warning indicator such that the outer surface of said covering is substantially flush with said

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at least one exterior surface, Virmoche teaches a device with a recessed area for a warning indicator that consists of at least one exterior surface formed with a recessed area (Fig. 5, recess E) sized to receive said warning indicator such that the outer surface of said covering is substantially flush with said at least one exterior surface (Fig. 4). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to further modify the worklight of the Prior Art, so as to include a device with a recessed area for a warning indicator as taught by Virmoche, so as to accurately determine at any time heat acquired by the device during operation of the device.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on PTO-892 and not mentioned above disclosed relative devices: a) Leen discloses a halogen worklight; b) Kronberg discloses an optical temperature indicator; c) Hutchinson discloses a thermochromatic indicator; d) Berry discloses a heat activated device employing thermochromatic liquid crystal; e) Parker (U.S. Patent No. 3,827,301) discloses a fin cooled temperature sensor, and; f) Kataoka discloses a temperature display tool.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Courson whose telephone number is 703-305-3031. The examiner can normally be reached on 8am-4:30pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 703-308-3875. The fax phone numbers for the



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organization where this application or proceeding is assigned are 703-308-7724 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



DIEGO F.F. GUTIERREZ  
SUPERVISORY PATENT EXAMINER  
GROUP ART UNIT 2859

TC  
June 17, 2002